

Message Text

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ACTION EB-06

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-05 NSAE-00 RSC-01 FAA-00 L-01 /022 W

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P R 312240Z OCT 74

FM AMEMBASSY LIMA

TO SECSTATE WASHDC PRIORITY 2558

INFO AMEMBASSY GUATEMALA

LIMITED OFFICIAL USE LIMA 9245

E.O. 11652: N/A

TAGS: EAIR, PE

SUBJECT: CIVAIR - PERU ISSUES BRANIFF NEW OPERATING
PERMIT

REF: LIMA 9201, A-242

1. NEW BRANIFF OPERATING PERMIT DATED OCTOBER 28 PRINTED
IN OFFICIAL GAZETTE "EL PERUANO" OF OCTOBER 31. COPY
POUCHED DEPARTMENT AND GUATEMALA. MEETING WITH AMBASSADOR
OCTOBER 31, BRANIFF REPRESENTATIVE PFLUCKER COMMENTED
THAT HIS PRELIMINARY STUDY INDICATED THAT PERMIT CONTAINED
FOLLOWING FEATURES:

A. PERMIT IS RETROACTIVE TO APRIL 1, 1974 AND IS VALID FOR
ONE YEAR UNTIL FEBRUARY 28, 1975.

B. BRANIFF HAS 45 DAYS, OR UNTIL DECEMBER 11, TO ADAPT
ITSELF TO PROVISIONS OF PERMIT.

C. PREAMBLE OF PERMIT CITES CIVIL AIR BILATERAL, BUT
STATES IT VALID ONLY INsofar AS IT CONFORMS TO PERUVIAN
LAW. ("CONSIDERING...THAT THE AIR TRANSPORT AGREE-
MENT BETWEEN PERU AND THE UNITED STATES OF AMERICA OF
DECEMBER 27, 1946 HAS NEITHER BEEN APPROVED NOR RATIFIED
AS REQUIRED BY ARTICLE 123 OF THE CONSTITUTION AS AS
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DETERMINED IN THE FIRST PART OF ARTICLE 27 OF LAW 15720,

NOT WITHSTANDING (THE FACT) THAT IT HAS HAD AND HAS
LEGAL EFFECT WITH RESPECT TO MATTERS NOT CONTRARY TO
PERUVIAN LEGISLATION;...")

D. WITH AEROPERU OPERATING SAME ROUTES AS BRANIFF,
EXCESS CAPACITY NOW EXISTS. (BRANIFF SAYS AEROPERU
STILL OPERATING FAR BELOW CAPACITY DESPITE CROWDING ON BRANIFF.)

E. PERMIT CUTS BRANIFF BACK FROM 34 TO 24 FLIGHTS
PER WEEK, WHICH INCLUDES REDUCTIONS IN THIRD AND FOURTH
FREEDOM TRAFFIC.

F. FLIGHTS BETWEEN LIMA AND MIAMI ARE REDUCED FROM
13 NORTHBOUND AND 17 SOUTHBOUND TO ONLY SEVEN FLIGHTS
EACH WAY PER WEEK.

G. OTHER CUTS INVOLVE REDUCTION TO TWO FLIGHTS PER
WEEK SERVICES ON ROUTES LIMA/BUENOS AIRES, LIMA/SANTIAGO,
AND LIMA/ASUNCION.

H. NO REDUCTION REQUIRED IN PRESENT FOUR FLIGHTS PER
WEEK TO BRAZIL, BUT THIS AUTHORIZATION VALID FOR ONLY 45
DAYS, AFTER WHICH IT IS SUBJECT TO REVISION.

I. TWENTY PERCENT SURCHARGE ON FIFTH FREEDOM
TRAFFIC IS NOT SPECIFICALLY MENTIONED, BUT PERMIT
DOES SAY THAT COMPENSATION WILL BE REQUIRED WHERE
RECIPROCITY IS NOT FOUND TO EXIST.

M. PERMIT REQUIRES THAT GOP OFFICIALS BE GIVEN
ACCESS TO AIRCRAFT BOTH ON GROUND AND IN FLIGHT FOR
"INSPECTION" PURPOSES.

2. PFLUCKER SAID HE IS PREPARING DETAILED, WRITTEN
ANALYSIS WHICH HE WILL MAKE AVAILABLE TO EMBASSY ON COM-
PLETION. HIS PRELIMINARY VIEW IS THAT IMPLIED RIGHT
TO RESTRICT THIRD AND FOURTH FREEDOM TRAFFIC IS COM-
PLETELY UNACCEPTABLE. ON OTHER HAND, PERMIT IS NOT AS
HARSH AS HE EXPECTED, AND HE REGARDS IT AS SETTING OUT-
SIDE PARAMETERS OF GOP POSITION IN FORTHCOMING CONSUL-
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TATIONS. TO EXTENT THIS IS THE CASE, HE BELIEVES THERE
IS SOME ADVANTAGE TO BE DERIVED FROM OPPORTUNITY TO
STUDY CARDS GOP HAS THUS PLACED ON TABLE. WE WILL AWAIT
PFLUCKER'S WRITTEN STUDY BEFORE COMMENTING FURTHER.
DEAN

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